

AMENDMENTS TO THE CLAIMS:

The following listing of claims replaces all prior listings, and all prior versions, of claims in the application.

Listing of Claims:

1 – 12. (Cancelled).

13. (Currently Amended) A non-aqueous secondary battery comprising:
a positive electrode,
a negative electrode, wherein an active material of said negative electrode is graphite, and
electrolytic solution, wherein
the graphite active material of said negative electrode comprises graphite
powder having substantially completely a crystal structure, and wherein a
rhombohedral fraction, of the crystal structure of the graphite powder, is in a range of
0-20 % by weight, a particle size of the graphite powder is equal to or smaller than
100 μm , and the graphite powder has a deintercalating capacity for lithium of at least
320 mAh/g.

14. (Currently Amended) A non-aqueous secondary battery comprising:
a positive electrode,
a negative electrode, wherein an active material of said negative electrode is
graphite, and
electrolytic solution, wherein
the graphite active material of said negative electrode comprises graphite
powder having substantially completely a crystal structure, and wherein a hexagonal

fraction, of the crystal structure of the graphite powder, is in a range of at least 80% by weight, a particle size of the graphite powder is equal to or smaller than 100 μm , and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

15 – 19. (Cancelled).

20. (Currently Amended) A non-aqueous secondary battery comprising:
a positive electrode,
a negative electrode, wherein an active material of said graphite electrode is graphite, and
electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein
the graphite active material of said negative electrode comprises graphite
powder having substantially completely a crystal structure, wherein a fraction of a rhombohedral crystal structure of the crystal structure of the graphite powder is equal to or less than 20% by weight a particle size of the graphite powder is equal to or smaller than 100 μm , and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

21. (Previously Presented) A non-aqueous secondary battery as claimed in claim 20, wherein

said graphite powder has a fraction of a hexagonal crystal structure of the crystal structure of the graphite powder which is equal to or more than 80% by weight.

22 – 23. (Cancelled).

24. (Currently Amended) A non-aqueous secondary battery comprising:
a positive electrode,
a negative electrode, wherein an active material of said graphite electrode is graphite, and
electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein
the graphite active material of said negative electrode comprises graphite powder having a particle size equal to or smaller than 100 μm ,
said graphite powder has substantially completely a crystal structure which includes both a hexagonal crystal structure and a rhombohedral crystal structure, and
the crystal structure of said graphite powder has a fraction of the rhombohedral crystal structure equal to or less than 20% by weight, and a fraction of the hexagonal crystal structure equal to or more than 80% by weight, and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

25 – 31. (Cancelled).

32. (Previously Presented) A non-aqueous secondary battery as claimed in claim 13, wherein the crystal structure of said graphite powder includes at least a fraction having hexagonal crystal structure.

33. (Previously Presented) A non-aqueous secondary battery as claimed in claim 20, wherein the crystal structure of said graphite powder includes at least a fraction having hexagonal crystal structure.

34 – 38. (Cancelled).